

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FRANTZ SAMSON, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

UNITED HEALTHCARE SERVICES, INC.,

Defendant.

Case No. 2:19-CV-00175-MJP

**STIPULATED MOTION AND
~~PROPOSED~~ ORDER DECERTIFYING
“DO NOT CALL” CLASS AND
WITHDRAWING PENDING MOTION
TO DECERTIFY**

**NOTE ON MOTION CALENDAR:
November 1, 2024**

Plaintiff Frantz Samson and Defendant United HealthCare Services, Inc., stipulate as follows:

1. On October 13, 2023, the Court in this case certified two classes:

Wrong Number Class

“All persons residing within the United States who, between January 9, 2015, and January 9, 2019, received a non-emergency telephone call(s) placed using either the Avaya Pro Contact or LiveVox IVR dialing systems from the Medicare and Retirement Non-Licensed Retention Team, the Community and State National Retention Team or the Medicare and Retirement Collections Team, to a cellular phone through the use of an artificial or prerecorded voice, and who, according to Defendant’s records, was not a UnitedHealthcare member at the time of the call.”

Do Not Call Class

“All persons residing within the United States who, between January 9, 2015, and January 9, 2019, received a non-emergency telephone call(s) placed using either the Avaya Pro Contact or LiveVox IVR dialing systems from the Medicare and Retirement Non-Licensed Retention Team, the Community and State National Retention Team or the Medicare and Retirement Collections Team, to a cellular

1 phone through the use of an artificial or prerecorded voice, and whose telephone
2 number, according to Defendant's records, was flagged or documented as "do not
3 call," "final do not contact" or otherwise recorded as a number not to be called."

4 Dkt. #266 at 30.

5 2. Subsequent to class certification, the parties engaged in additional discovery,
6 including the production by United of over 100,000 call recordings. On July 22, 2024, United
7 filed a motion to decertify the classes and argued, *inter alia*, that the recordings demonstrated
8 that the issue of consent could not be resolved for either class based on class-wide proof, that
9 individualized issues of consent predominate, and thus that both classes should be decertified.
10 *See generally* Defendant's Motion to Decertify the Classes, Dkt. # 311.

11 3. On September 13, 2024, Plaintiff filed an opposition to United's motion. In the
12 opposition, and for the reasons set forth therein, Plaintiff stated that he opposed decertification of
13 the "Wrong Number" class. Dkt. # 330. However, Plaintiff agreed that the Court should
14 decertify the "Do Not Call" class. Plaintiff's opposition explained that United "has now
15 produced call recordings showing its agents routinely dispositioned calls 'DNC' and 'final do not
16 contact' when the called party did not make a do not call request." *Id.* at 2. As a result, Plaintiff
17 stated that it "does not oppose United's request to decertify the Do Not Call Class" and requested
18 in its conclusion that the Court "decertify the Do Not Call class." *Id.*

19 4. Defendant's motion to decertify similarly explained with many examples that "the
20 extensive recording evidence United has produced" provided "overwhelming evidence that the
21 'do not call' code cannot eliminate the need for individualized factfinding to resolve the consent
22 issue." Dkt # 311 at 9.

23 5. Thus, as of September 13, 2024, the parties agreed that the "Do Not Call" class
24 should be decertified.

25 6. However, Plaintiff continued to maintain that certification of the Wrong Number
26 class was appropriate, and thus opposed decertification of that class for the reasons set forth in
27 Plaintiff's opposition. *See generally* Dkt. #330, Plaintiff's Opposition to Defendant's Motion to

Decertify the Classes. The parties thus continued to disagree as to whether the “Wrong Number” class was properly certified as a class action.

7. Following the filing of Plaintiff’s opposition, the parties agreed to extend the deadline for Plaintiff’s reply until November 1, 2024, to allow for completion of discovery relevant to the reply.

8. On October 27, 2024, with completion of briefing on United’s motion to decertify imminent, the parties entered into settlement discussions to determine if the parties could resolve the issues surrounding the “Wrong Number” class that remained in dispute without the need for further proceedings before the Court. As previously in the case, the parties enlisted the assistance of Louis D. Peterson of Hillis Clark Martin & Peterson P.S. as mediator.

9. On the evening of October 30, 2024, the parties reached a settlement in principle to resolve the claims of the “Wrong Number” class—*i.e.*, the only issues that remained in dispute. The next day, the parties notified the Court of the settlement in an email from counsel for Plaintiff. The email stated:

The parties are pleased to report that we have reached agreement in principle to resolve, on a classwide basis, *Samson v. UnitedHealthCare Services, Inc.*, No. 2:19-cv-00175-MJP. We are working to paper the settlement and anticipate being able to file a preliminary approval motion by December 6, 2024. All counsel of record are copied on this email.

We respectfully request that the Court vacate all case deadlines, including tomorrow’s deadlines related to Defendant’s decertification motion, additional pretrial deadlines, and the March 31, 2025 trial date. Please let us know if the Court would like us to file a formal stipulation or notice in connection with this request.

10. The Court’s deputy replied:

The Court appreciates the update on this case. I have spoken with Judge Pechman’s chambers, and she would like formal withdrawals of the pending motion for decertification and the two pending motions to seal to be filed on the docket. Once we have those, the Court will issue an order vacating the March 31, 2025 trial date and related hearings/deadlines.

11. The parties thus stipulate to (i) decertification of the “Do Not Call Class” for the reasons set forth above and in the parties’ prior filings in which both parties agreed decertification was appropriate, and (ii) withdrawal of United’s motion to decertify in light of the settlement between the parties as to which the parties anticipate seeking preliminary approval no later than December 6, 2024.

DATED: November 1, 2024

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ORDER

Based on the foregoing Stipulation, IT IS SO ORDERED.

DATED this 6th day of November, 2024.



The Honorable Marsha J. Pechman
United States District Court Judge